

Remarks

Applicant would initially like to thank Examiner Padmanabhan and Examiner Yu for the courtesies extended to Applicant's representative during the teleconference of March 23, 2004.

During the teleconference the Examiners contended that the Advisory Action contained some errors with respect to the claims indicated as being in condition for allowance. This Response is submitted pursuant to the Examiners' request and in accordance with this discussion.

Upon entry of this Response, claims 10-15, 28-29, 33-36, 40, 43-44, 47, 49-50, 70, 72-73, 76-78, 85 and 88 are pending in the subject application. All pending claims are believed to be in condition for immediate allowance.

According to the Examiners during the afore-referenced discussion, claims 10-15, 33-36, 43, 47, 70 and 85 are allowable. Similarly, claims 44, 50, 73 and 88 are allowable, according to the Examiners.

The Examiners further indicated that claim 40 and claims 49 and 72 depending therefrom would be allowable if claim 40 was amended to change "comprising" to "consisting essentially of" in lines 14 and 29, as recited in lines 4 and 8. Applicant respectfully disagrees with the Examiners' position. However, in the interest of advancing the prosecution of this application, the Examiners' suggested amendment has been made to claim 40.

During the teleconference, the Examiners further indicated that claim 37 was not in condition for allowance in view of the phrase "acid selected from the group consisting of alpha hydroxyl acid, beta hydroxyl acid and trichloroacetic acid" in conjunction with the recited first and second compositions. Applicant respectfully traverses this position. However, in the interest of advancing the prosecution of this application, claim 37 and claims 38-39, 71 and 86 depending therefrom have been canceled without prejudice.

During the teleconference, the Examiners also maintained the rejection of claims 76-78 and 89 including the claims depending therefrom. Applicant respectfully disagrees with this rejection. However, in the interest of advancing the prosecution of the subject application, claim 89 is canceled without prejudice and claims 76-78 have been amended to each depend from allowed claim 10.

Claims 85-88 were also rejected in the Advisory Action under 35 USC 112, second paragraph, as being vague and indefinite. Applicant respectfully disagrees with this rejection. Claims 85 and 88 recite further compositional features of the formulation of the first composition. These claims clearly indicate that the first composition can also comprises malic acid and citric acid, as supported at page 5 and elsewhere in the specification. As discussed with Examiner Yu on March 17, 2004 and Examiner Padmanabhan and Examiner Yu on March 23, 2004, no further clarifying amendment should be required and these claims are in condition for allowance. Claims 86-87 have been canceled without prejudice in view of the amendments/cancellation of the claim from which these claims depend.

Applicant respectfully reserves the right to pursue any previously rejected subject matter in one or more continuing applications and/or divisional applications. Additionally, any amendment or cancellation of subject matter is made without prejudice to Applicant pursuing the prior subject matter in a further application and such amendment or cancellation does not indicate that Applicant agrees with any rejection/objection by the Examiners.

The Examiners are also respectfully requested to return an Examiners' initialed 1449 form for the IDS submitted by Applicant on July 28, 2003.

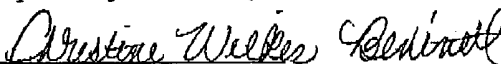
Applicant also hereby petitions for a two month extension of time in which to submit this Response to Advisory Action measured from the Office Action dated November 19, 2003. Accordingly, the due date for response is April 19, 2004. The Commissioner is authorized to charge our USPTO Deposit Account 50-1924 (Ref. No. 041A.0001.U1US) in the amount of \$205 for the small entity extension fee or any other fee that may be required upon submission of this Response.

All outstanding issues having been addressed, the application is believed to be in condition for immediate allowance and such favorable action is earnestly solicited. No new issues are raised. Accordingly, the Examiners are respectfully requested to pass the subject application to allowance. In view of the foregoing, the following claims should be allowed and an expedited Notice of Allowance is respectfully requested: 10-15, 28-29, 33-36, 40, 43-44, 47, 49-50, 70, 72-73, 76-78, 85 and 88.

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Respectfully submitted,


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